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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,742	12/18/2006	Gunter Wanschura	19597	2552
272 7590 07/25/2008 SCULLY, SCOTT, MURPHY & PRESSER, P.C. 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
EXAMINER				
LESLIE, MICHAEL S				
ART UNIT		PAPER NUMBER		
3745				
MAIL DATE		DELIVERY MODE		
07/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/575,742

Applicant(s)

WANSCHURA ET AL.

Examiner

MICHAEL LESLIE

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 4/10/2006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Objections

Claim 12 is objected to because of the following informalities: Claim 12, Line 4, "and in each of the cylinder bores of the second group" should be deleted (repeated phrase). Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "the first and second connecting ducts" in line 2. There is insufficient antecedent basis for this limitation in the claim. It appears that claim 6 should depend from claim 2.

Claim 7 recites the limitation "the first and/or the second connecting ducts" in line 2. There is insufficient antecedent basis for this limitation in the claim. It appears that claim 7 should depend from claim 2.

Claim 8 recites the limitation "the connecting ducts" in line 2. There is insufficient antecedent basis for this limitation in the claim. It appears that claim 8 should depend from claim 2.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 6, and 9-12 are rejected under 35 U.S.C. 102(a) as being anticipated by Inoue et al (2003/0188530).

Inoue et al discloses a hydrostatic piston machine with a cylinder drum (11), in which a first group of cylinder bores (H) and a second group of cylinder bores (T) are made, the cylinder bores of the first group being connectable to a first hydraulic circuit and the cylinder bores of the second group being connectable to a second hydraulic circuit, the cylinder drum being connected to a drive shaft (not shown) in a manner locked against relative rotation in order to transmit a rotary movement, and the cylinder bores of the first group and the cylinder bores of the second group being made in the cylinder drum on a common divided circle. Wherein the cylinder bores of the first group are connectable to the first hydraulic circuit via first connecting ducts (~Pi) which open out at an end face of the cylinder drum with a first distance (not labeled) from the longitudinal axis of the cylinder drum, and the cylinder bores of the second group are connectable to the second hydraulic circuit via second connecting ducts (Po) which open out at the end face of the cylinder drum with a different, second distance (not labeled) from the longitudinal axis of the cylinder drum (see Fig. 2 or 7). A first kidney control port (15T) connected to the first hydraulic circuit is made in a control plate (13) and extends along a circular arc with a first radius (not labeled) corresponding to the first distance of the mouths of the first

connecting ducts from the longitudinal axis of the cylinder drum and in that a second kidney control port (15H) connected to the second hydraulic circuit is made in the control plate and extends along a circular arc with a different, second radius (not labeled) corresponding to the second distance of the mouths of the second connecting ducts from the longitudinal axis of the cylinder drum. Wherein the first and second connecting ducts run parallel to the longitudinal axis of the cylinder drum, the number of cylinder bores in the cylinder drum of the common divided circle is even, the number of cylinder bores of the first group is identical to the number of cylinder bores of the second group and is an odd number, and pistons (12) are arranged longitudinally displaceable in each of the cylinder bores of the first group and in each of the cylinder bores of the second group, and the pistons are supported on a pivoting plate (14) which, in order to reverse the working direction of the piston machine, is pivotable in two directions starting from an orthogonal position with respect to the longitudinal axis of the cylinder drum.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al (2003/0188530) in view of Wolcott et al (6079313).

Inoue et al discloses a hydrostatic piston machine as described above with respect to claim 3, further including a third kidney control port (B), but does not teach a third kidney

control port connected to the first circuit made in the control plate that extends along the circular arc with the first radius, and a fourth kidney control port connected to the second circuit made in the control plate and extending along the circular arc with the second radius.

Wolcott et al discloses a reversible pump unit for pumping to multiple hydraulic circuits (Figs. 11A & 11B etc.) having a control plate with first and third kidney control ports (44a' & 44b') along an arc at a first radius (Fig. 11B) and second and fourth kidney control ports (44a & 44b) along an arc at a second radius (Fig. 11B) for delivering fluid to multiple hydraulic circuits.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the control plate of Inoue et al to have a third kidney control port connected to the first circuit made in the control plate that extends along the circular arc with the first radius, and a fourth kidney control port connected to the second circuit made in the control plate and extending along the circular arc with the second radius as taught by Wolcott et al for the purpose of enabling the pump to draw and deliver fluid from multiple hydraulic circuits.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al (2003/0188530) in view of Brosch et al (20030136359).

Inoue et al discloses a hydrostatic piston machine as described above with respect to claim 3, but does not teach that the control plate has a spherical protuberance and bears against a corresponding spherical indentation of the end face of the cylinder drum.

Brosch et al discloses an axial piston machine having a cylinder drum (16) and control plate (14), wherein the control plate has a spherical protuberance and bears against a corresponding spherical indentation of the end face of the cylinder drum.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cylinder drum and control plate of Inoue et al to such that the control plate has a spherical protuberance and bears against a corresponding spherical indentation of the end face of the cylinder drum as taught by Brosch et al for the purpose of enhancing alignment of the ports and reducing relative movement.

Allowable Subject Matter

Claims 7 and 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL LESLIE whose telephone number is (571)272-4819. The examiner can normally be reached on M-F 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ML
July 18, 2008

**/Michael Leslie/
Primary Examiner, Art Unit 3745**